IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05/09/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO.7576 OF 1997

C. Karthikeyan .. Petitioner

-Vs-

1. The District Collector,
Anna District,
Kancheepuram.

2. The General Manager,
Electronics Corportion of
India Limited,
Department of Atomic Energy,
Government of India undertaking,
Hyderabad, Andhra Pradesh. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.D. Govind Reddy

For Respondents 1 : Mrs.N.G. Kalaiselvi,
Special Govt. Pleader

For Respondent-2 : Mr. Kartick for
M/s. T.S. Gopalan & Co.

:J U D G M E N T

Petitioner has filed this writ petition against the District Collector, Anna District, Kancheepuram and the General Manager, Electronics Corporation of India at Hyderabad, Andhra Pradesh claiming the following reliefs :-

28-3 -1997 passed by the Collector of Anna District at Kancheepuram, 1st respondent herein and disciplinary proceedings initiated in ECIL PG. APD.114296 dated 29-9-1995 by Electronics Corporation of India Ltd., the 2nd respondent herein and quash the same by issuing the Writ of Certiorarified

Mandamus or any other Writ Order or Direction directing the First respondent to confirm the community Certificate issued by Tahsildar of Maduranthakam in C.No.1756/86 dated 23-5-86 and to direct the 2nd respondent/Electronic Corporation of India Ltd. to drop the disciplinary proceeding in Ref.ECIL.PG.APD.114296 dated 29-9-1995

2. The first relief relates to cancellation of the community certificate by the Collector and the second relief relates to initiation of disciplinary proceedings by the second respondent.

3. Learned counsel appearing for the second respondent has submitted that the writ petition in this High Court is not maintainable.

4. So far as the first relief is concerned, there cannot be any dispute that the writ petition filed in this Court against the order of the Collector, Anna District cancelling the community certificate is maintainable. One of the main contention so far as this relief is concerned, veers round the question of jurisdiction of the Collector to cancel the community certificate.

5. In A.I.R. 1995 SC 94 (KUMARI MADHURI PATIL AND ANOTHER v. ADDL. COMMISSIONER, TRIBAL DEVELOPMENT AND OTHERS) the Supreme Court has laid down the principles in the matter relating to cancellation of the community certificate. Among others it has been observed that the question of validity of community certificate should be decided by the appropriate committee consisting of three members as indicated in the said case.

6. In the present case, the community certificate has been cancelled by the Collector on 28.3.1997 after the decision of the Supreme Court. In view of the decision of the Supreme Court, there is no escape from the conclusion that cancellation of the community certificate by the Collector is without jurisdiction.

7. Similar view has been expressed in several decisions of this Court including the decisions cited in 2002 W.L.R. 380 (K. PRAKALATHAN v. THE DISTRICT COLLECTOR, TIRUNELVELI KATTABOMMAN DISTRICT AND OTHERS),in W.P.No.16904 of 1995 (N. SETHURAM v. THE DISTRICT COLLECTOR, TIRUNELVELI KATTABOMMAN DISTRICT AND OTHERS),by order dated 14.8.2001, in W.P.No.11966 of 1995 by order dated 26.6.2002 and in W.P.No.17568 of 1995 by order dated 4.10.2002.

8. First relief claimed by the petitioner is therefore allowed and the order passed by the Collector, Anna District dated 28-3-1997 is quashed. However, since the question of validity of the community certificate has already been raised, it is directed that the question relating to validity of the community certificate shall be referred to the appropriate State Level Scrutiny Committee by the District Collector, namely the first respondent and thereafter the matter shall be decided by the appropriate State Level Committee in accordance with law as expeditiously as possible, preferably within a period of six months from the date of reference to be made by the District Collector. The reference should be done within a period of

one month from the date of communication of the present order to the Collector.

9. So far as the second relief claimed in the writ petition is concerned, serious objections have been raised by the second respondent regarding maintainability of the writ petition in this High Court. It has been submitted by the counsel for the second respondent that Head Office of the second respondent is at Hyderabad and no part of cause of action having arisen within the territorial jurisdiction of this Court, such relief cannot be considered by this Court.

10. Learned counsel appearing for the petitioner has placed reliance upon Article 226(2) of the Constitution of India and has submitted that since part of the cause of action has arisen within the State of Tamil Nadu, this Court is entitled to grant the relief claimed by the petitioner. Article 226(2) is extracted hereunder :-

. . . 2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

11. A perusal of the aforesaid provision makes it clear that even if a person or authority against whom writ is filed is not a resident of particular State, the High Court can issue appropriate writ against such person or authority if cause of action either in whole or in part arises within the jurisdiction of the concerned High Court. This position is now

made clear by several decisions of the Supreme Court including the one reported in 1994 (4) SCC 711 (OIL AND NATURAL GAS COMMISSION v. UTPAL KUMR BASU).

12. Learned counsel for the petitioner has however placed strong reliance upon the decision of the Supreme Court reported in 2000 (7) SCC 640 (NAVINCHANDRA N. MAJITHIA v. STATE OF MAHARASHTRA AND OTHERS) and has contended that the very fact that community certificate had been issued by the Collector of Anna District and the question of validity of the community certificate before the Collector was raised by the second respondent, it must be held that a part of cause of action has arisen within the territorial jurisdiction of this Court. This ingenuous submission even though prima facie attractive, is not acceptable on a closer scrutiny of the facts and circumstances of the present case. In the decision of the Supreme Court relied upon by the petitioner, large number of events had taken place at Bombay in respect of the allegations contained in F.I.R. registered at Shilong and the Supreme Court was of the view that since major portion of the facts which led to the registration of the F.I.R. had taken place in Bombay, it could not be said that cause of action had not arisen within the territorial jurisdiction of Bombay High Court.

13. In READ v. BROWN (1888 (22) QBD 128) Lord Esher explained the cause of action to mean:
every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court. It does not comprise every piece of evidence which is necessary to prove each fact, but every fact which is necessary to be proved. (emphasis supplied).

14. The aforesaid test has been accepted by the Privy Council in AIR 1949 PC 78 (MOHD. KHALIL KHAN v. MAHBUB ALI MIAN).

15. In 1985(3) SCC 217 (STATE OF RAJASTHAN v. SWAIKA PROPERTIES) while recognising wide amplitude of the expression cause of action, the Supreme Court has cautioned the High Courts against transgressing into the jurisdiction of other High Courts merely on the ground of some insignificant event connected with the cause of action having taken place within the territorial limits of the High Court to which the litigant approaches at his own choice or convenience. It was observed as follows :-

If an impression gains ground that even in cases which fall outside the territorial jurisdiction of the court, certain members of the court would be willing to exercise jurisdiction on the plea that some event, however trivial and unconnected with the cause of action had occurred within the jurisdiction of the said court, litigants would seek to abuse the process by carrying the cause before such members giving rise to avoidable suspicion. .

16. Keeping in view the aforesaid sentiments expressed by the Supreme Court it has to be examined in the present case as to whether any part of the cause of action so far as relates to initiation of disciplinary proceedings had arisen within the territorial jurisdiction of this Court.

17. A perusal of the averments in the present writ petition relating to initiation of disciplinary proceedings against the petitioner, does not persuade me to come to a conclusion that any part of the cause of action has arisen within the territorial jurisdiction of this Court.

18. The Charge-memo indicates about certain factual mis-statements already made. The events narrated in the charge-memo are not at all connected with the question of cancellation of community certificate. As a matter of fact, the charge-m n issued much before the cancellation of the community certificate. The charge-memo does not refer to the validity of the community certificate at all. The fact that community certificate had been cancelled by the Collector, Anna District does not have any significant connection with the allegations made in the charge-memo. In such view of the matter, the contention of the learned counsel for the second respondent that this Court does not have jurisdiction so far as the question relating to initiation of the disciplinary proceeding is well founded.

19. The prayer relating to quashing of disciplinary proceedings is otherwise not maintainable in view of the Rules of the High

Court providing that a writ petition is required to be confined to one prayer. In the present case, the prayer relating to quashing the order of cancellation of community certificate and prayer for issuance of writ of Mandamus to the second respondent to drop the disciplinary proceedings are not at all inter-connected. The disciplinary proceedings does not have any relation with the cancellation of the community certificate. The second prayer cannot be said to be a consequential relief.

20. In such view of the matter, while allowing the writ petition in part in respect of the first prayer and quashing the order of the Collector, Anna District, I am of the view that the writ petition is not maintainable as against the second respondent. It goes without saying that since the second relief prayed for by the petitioner is not at all considered by this Court on merit, it would be open to the petitioner to seek for appropriate relief before the appropriate forum.

21. The writ petition is accordingly allowed in part subject to the direction in paragraph 8. There would be no order as to costs.

Index : Yes
Internet : Yes
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To

1. The District Collector,
Anna District,
Kancheepuram.

2. The General Manager,
Electronics Corportion of
India Limited,
Department of Atomic Energy,
Government of India undertaking,
Hyderabad, Andhra Pradesh.